AMO REPORTS 84-2

RESPONSE TO THE OFF-ROAD VEHICLES ACT

THE ASSOCIATION OF MUNICIPALITIES OF ONTARIO
FEBRUARY 1984

ASSOCIATION OF MUNICIPALITIES OF ONTARIO

The Association of Municipalities of Ontario, a non-partisan voluntary organization, is united to promote the values of the municipal government system and the status of the municipal level of government as a vital and essential component of the total intergovernmental framework of Ontario and Canada.

The Association acts as the collective voice of Ontario's municipal governments and is organized to accomplish through cooperation and coordination, what the majority have neither the time nor the resources to do individually.

The Association represents some six hundred (600) municipal governments throughout Ontario. The governing body is composed of some eighty (80) municipal elected and appointed officials, who in turn represent a wide-range of municipal government interest.

The following sections and affiliated municipal professional associations form an important part of the Association's structure and therefore, play an important part in its activities in terms of the Board of Directors, program and policy development:

Association Sections:

* County and Regional Section
* Large Urban Section
* Northern Ontario Section (FONOM/NOMA)
* Rural (ROMA) Section
* Organization of Small Urban Municipalities Section

Association Affiliates:

* Association of Municipal Clerks and Treasurers of Ontario
* Association of Municipal Tax Collectors of Ontario
* Municipal Engineers Association
* Ontario Municipal Administrators Association
* Ontario Municipal Personnel Association
* Ontario Municipal Social Services Association
* Society of Directors of Municipal Recreation of Ontario

To the Municipal Clerk:

Please circulate this Report to the members of council and to the staff of your municipality. Additional copies are available at $2.50 each from the Publications Centre, Association of Municipalities of Ontario, 100 University Avenue, Suite 902, Toronto, Ontario M5J 1V6

TABLE OF CONTENTS

		Page
1.	INTRODUCTION	1
2.	OFF-ROAD VEHICLES ACT/AMO COMMENTS	2
2.1	Motorized Off-Road Vehicles	2
2.2	Vehicle Registration	3
2.3	Licensing	3
2.4	Owner's Liability	3
2.5	Insurance	4
2.6	Eligible Purchaser	4
2.7	Penalties	4
2.8	Municipal Authority to Regulate	5
3.	SUMMARY OF RECOMMENDATIONS	6

"AMO Reports 84-2" was submitted to the Honourable Claude Bennett, Minister of Municipal Affairs and Housing, and the Honourable James Snow, Minister of Transportation and Communications, on March 14, 1984.

AMO RESPONSE TO
THE OFF-ROAD VEHICLES ACT

1. INTRODUCTION

In August of 1979 the Association of Municipalities of Ontario prepared a report which outlined the concerns of municipalities relative to off-road motorized recreational vehicles. That report recommended:

- that all such vehicles be registered before sale;
- that all drivers of such vehicles be tested and licensed by the Ministry of Transportation and Communications;
- that parents or guardians be liable for offences committed or damages resulting from the operation of such a vehicle by a minor;
- that owners be responsible for all usage of the vehicle and subject to the same fines and charges as a driver;
- that vehicles operating on any property without permission be impounded;
- that vehicles used as part of a farm operation be exempted.

In October of 1979 the Provincial Government, through the Ministry of Transportation and Communications (MTC), outlined its position relative to "motorized off-highway vehicles" in a discussion paper. This discussion paper recommended:

- that off-road vehicles be registered annually;
- that owners possess insurance as a condition of registration;
- that the Municipal Act be amended to authorize municipalities to regulate the locations where such vehicles could be operated.

In response to the Province's discussion paper the Association published AMO Reports 10: Motorized Off-Highway Vehicles in January of 1980. In responding AMO reiterated its previous recommendations (outlined above) and made the following additional recommendations:

- that persons under the age of sixteen (16) not be permitted to own such vehicles;
- that all controls apply to privately manufactured or "home-made" vehicles;
- that strict penalties apply to all aspects of non-compliance;
- that municipalities be authorized to prohibit the use of such vehicles within their boundaries except on the operator's property;
- that municipalities be authorized to restrict the type of off-road vehicle(s) permitted in any area within their jurisdiction.

The Off-Road Vehicles Act was given Royal Assent on November 9, 1983. The Act addresses only some of the concerns identified by the Association in the two reports referred to above. The following pages will outline some of the provisions included in the Act and present AMO's comments relative to the legislation.

2. THE OFF-ROAD VEHICLES ACT/AMO COMMENTS

2.1 Motorized Off-Road Vehicles

The Off-Road Vehicles Act defines "off-road vehicle" as:

> "a vehicle propelled or driven otherwise than by muscular power or wind and designed to travel on not more than three wheels in contact with the ground."

The Act does not differentiate between vehicles used for recreational purposes and those used for farm or off-road maintenance purposes nor would the provisions in the Act apply to vehicles with four or more wheels. The Association believes that any such legislation should apply to all recreational vehicles.

Therefore AMO recommends:

1. That any legislation governing motorized off-road vehicles apply to all classes of motorized off-road recreational vehicles.

2. That vehicles used for off-road maintenance purposes or for a purpose ancillary to farm operations be exempt from the provisions of the legislation.

3. That any exempt vehicle(s) used for a purpose other than that on which their exemption was based be subject to the provisions of the legislation.

The Association would also take this opportunity to re-state a resolution passed by AMO in August, 1981, which requested the following:

> "that motorized off-road vehicles be equipped with spark arrestors or exhaust systems to prevent the starting of fires, particularly in reforestation areas and upon other private land."

2.2 Vehicle Registration

The Off-Road Vehicles Act requires that a permit be obtained for each vehicle prior to it being operated and that an owner be over 16 years of age to obtain a permit. The Association reiterates its belief that this registration or permit should be obtained at the time of purchase rather than prior to operation. This would insure that all such vehicles are registered. Any vehicles that are "home-made" would still require registration prior to operation.

Therefore AMO recommends:

4. That all vehicles be registered prior to sale and that future sales of any registered vehicle be required to be reported within a specified time period.

5. That "home-made" vehicles be required to be registered prior to operation.

2.3 Licensing

The Association had previously recommended that all drivers be tested and licensed before operating a motorized off-road vehicle. The Act does not require such a procedure. The Association believes that, if all vehicles are required to be registered prior to sale, as proposed in recommendation #4, if stiff penalties are imposed on the operators of vehicles which are not registered and if vehicle owners are made liable for damage and injury caused and subject to charges and convictions in the same manner as the driver of a vehicle, the licensing of operators may not be necessary. In this regard the Association suggests that the Ministry of Transportation and Communications prepare a safety pamphlet to be distributed with the owner's manual for each such vehicle.

2.4 Owner's Liability

The Off-Road Vehicles Act would make the registered owner of a vehicle liable for injury or damages caused by that vehicle and subject to the same charges and convictions as the operator of that vehicle provided the vehicle was being operated with the owner's

knowledge and consent. AMO concurs with this provision in the Act and underlines the importance of requiring registration at the time of sale if this provision is to be effective.

2.5 Insurance

Every vehicle to which the legislation applies requires insurance under the Insurance Act, except those vehicles operated on the vehicle owner's property. The Association concurs with this provision provided adequate coverage is made available by the insurance industry.

2.6 Eligible Purchaser

The Association requested that persons under sixteen years not be permitted to purchase motorized off-road vehicles. If the Provincial Government accepts AMO's recommendation #4, which would require all such vehicles to be registered prior to sale and maintains the provision in the Act that requires a person to be at least sixteen (16) years of age in order to register a vehicle, AMO's concerns in this regard will have been adequately addressed.

2.7 Penalties

AMO concurs with the penalties provided in the Off-Road Vehicles Act with the exception of the penalty for illegal display of the vehicle permit. The vehicle permit is vital to identification of the vehicle owner and in many cases to apprehension of an individual violating the legislation. As such the penalty associated with improper display of the permit should be more severe.

Therefore AMO recommends:

6. That the penalty for illegal display of a vehicle permit, as per Section 9 of the Off-Road Vehicles Act, should be significantly increased from the proposed penalty of $5 minimum to $10 maximum.

Also, with respect to penalties, the Association reiterates its belief that the legislation should give the police department having jurisdiction explicit authority to impound vehicles being operated in contravention of the legislation or any related municipal by-law.

2.8 Municipal Authority to Regulate

As previously indicated, AMO Report 10: Motorized Off-Highway Vehicles (January, 1980) recommended that municipalities be authorized to prohibit the use of off-road vehicles within a municipality's boundaries, except on the vehicle operator's or owner's property, and to regulate the type of vehicle(s) permitted in any given area within the municipality's jurisdiction.

The Minister of Municipal Affairs and Housing has indicated that no such changes are needed since existing legislative provisions contained in several provincial statutes do indeed provide the necessary regulatory mechanisms to achieve the desired control of off-road vehicles, both on public and private property.

AMO believes that the present legislative mechanisms, while theoretically being sufficient, are cumbersome, fragmented, difficult to enforce and ineffective in controlling the problems associated with off-road vehicle use. As such, AMO reiterates its 1980 recommendations in this regard.

Therefore AMO recommends:

7. That municipalities be authorized to prohibit the use of motorized off-road recreational vehicles within the boundaries of the municipality except on the vehicle owner's or operator's property.

8. That municipalities be authorized to restrict the type of motorized off-road recreational vehicles permitted in any area within the municipality's jurisdiction.

3. SUMMARY OF RECOMMENDATIONS

1. That any legislation governing motorized off-road vehicles apply to all classes of motorized off-road recreational vehicles.

2. That vehicles used for off-road maintenance purposes or for a purpose ancillary to farm operations be exempt from the provisions of the legislation.

3. That any exempt vehicle(s) used for a purpose other than that on which their exemption was based be subject to the provisions of the legislation.

4. That all vehicles be registered prior to sale and that future sales of any registered vehicle be required to be reported within a specified time period.

5. That "home-made" vehicles be required to be registered prior to operation.

6. That the penalty for illegal display of a vehicle permit, as per Section 9 of the Off-Road Vehicles Act, should be significantly increased from the proposed penalty of $5 minimum to $10 maximum.

7. That municipalities be authorized to prohibit the use of motorized off-road recreational vehicles within the boundaries of the municipality except on the vehicle owner's or operator's property.

8. That municipalities be authorized to restrict the type of motorized off-road recreational vehicles permitted in any area within the municipality's jurisdiction.

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83-4 Response to the Discussion Paper on Ontario Carbonated Soft Drink Container Regulations
83-5 Reform and Revision of Conservation Authorities in Ontario
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